

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 3: ENVIRONMENTAL HEALTH

Chapter 2: Permits and Hearing Procedures.

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33.020 Authority.

Pursuant to the authority cited in Chapter I (Authority and Administration) of this Environmental Health Code (E.H. Code), the Department of Environmental Health Services (DEHS) of the County of San Bernardino shall enforce the following permit and hearing procedures.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986); Amended ordinance #3611 (1995);

33.021 DEHS Plan Review and Construction Permits Required.

No person or entity shall commence any construction activity, remodel, alteration, substantial addition or change in equipment and/or scope of operation for any activity or facility subject to DEHS jurisdiction whether permanent or for temporary special events, without first obtaining written approval of three (3) sets, or more as required herein, of detailed plans submitted to DEHS accompanied with plan check fees in those amounts specified in the San Bernardino County Code Schedule of Fees. Scaled plans shall be in a conventional format that allows rapid review by DEHS. Where complex, unique, or peculiar public health and safety risks may be created by the proposed activity or facility, DEHS may require special engineering studies sufficient to demonstrate that every reasonable elimination or reduction of such risks has or will be taken. No deviation from approved or corrected plans shall occur without written approval of DEHS. No construction or related activity shall occur at the job site without DEHS approved or corrected plans being presented. DEHS inspection and approval shall be obtained at the completion of each construction phase. Operational permits shall be obtained from DEHS before the activity or facility is operated or opened to the public.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.022 Current Operational Permits Required.

No person or entity shall own, operate, or allow the operation of any activity or facility subject to DEHS jurisdiction, whether permanent or for temporary special events, without first applying for, receiving, and retaining an unexpired, unsuspended, unrevoked DEHS operational permit for each activity or facility, and paying fees to DEHS in those amounts specified in the San Bernardino County Code Schedule of Fees.

Each applicant shall furnish accurate names, addresses, and other relevant information reasonably required by DEHS for administration of this E.H. Code. By the signature of the applicant's representative on the application, each applicant consents to periodic unannounced inspection(s) at all reasonable business hours by DEHS Enforcement Officers, and to the collection of evidence, samples, photographs, examination of invoices, and all other reasonable inspection procedures to determine compliance with all applicable laws enforced by DEHS.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.023 Administration of Permits. Special Processing Fees and Penalties.

Except as otherwise provided herein, DEHS permits shall not be transferable from one person or entity to another or from one location to another. Each such permit shall be placed in a conspicuous place in or on the permitted activity or facility in the manner prescribed by DEHS. Applicants shall renew permits prior to their expiration. DEHS may assess reasonable special processing fees against any activity or facility operating without a

permit; with an expired, suspended, or revoked permit; and when checks are returned without payment; as set forth in the San Bernardino County Code Schedule of Fees.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.024 Operating With an Expired Permit Unlawful.

Any person or entity operating or allowing the operation of any activity or facility subject to DEHS jurisdiction with a permit expired for more than thirty (30) days without having made application for renewal with DEHS, shall be guilty of an infraction offense for each day or portion thereof such violation exists. The penalty upon conviction thereof shall be a fine of at least twenty-five dollars (\$25) but shall not exceed one hundred dollars (\$100) for the first violation, a fine not exceeding two hundred dollars (\$200) for the second conviction within one (1) year, and a fine not exceeding five hundred dollars (\$500) for the third conviction within one (1) year. The fourth and additional convictions within one (1) year shall result in revocation of the permit to operate as set forth in Section 33.025 herein.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.025 Grounds for Revocation of Permits and Penalties for Continued Operation.

DEHS may revoke operational permits for repeated noncompliance with relevant law, or otherwise for just cause where the health or safety of the public may be endangered. Prior to such revocation, DEHS shall, by an Administrative Order to Show Cause (OSC), notify the permit holder to show cause why such permit should not be revoked by DEHS. The OSC shall state the allegations and evidence leading to its issuance and notify the permit holder of the right to a hearing on the OSC if requested within fifteen (15) calendar days after receipt of the OSC or else such right to a hearing shall be deemed waived. Unless the DEHS operational permit is also suspended, any activity or facility may continue to operate pending action on the OSC. Continued operation of any activity or facility after revocation of relevant DEHS operational permits is a misdemeanor and any person or entity so convicted shall be punished by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or six (6) months in jail, or both.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.026 Administrative Procedures Where Permits Revoked.

All conditions upon which DEHS based a revocation shall be corrected in an approved manner prior to an activity or facility being granted a new permit to operate. Where revocation of a DEHS permit has occurred, the applicant shall apply in the manner provided for new applicants, shall pay all appropriate fees, and shall include a signed statement by the applicant that all conditions complained of by DEHS have been completely corrected.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.027 Grounds for Summary Suspension of Permits and Penalties for Continued Operation.

DEHS may summarily suspend any DEHS permit when DEHS finds or reasonably suspects continued operation of the facility or activity may constitute an immediate public health hazard. Additionally, whenever DEHS authorized representatives are denied access or entry to any part of the activity or facility under DEHS jurisdiction or permit, interfered with, prevented, restricted, obstructed, or otherwise unreasonably hindered in the performance of their duties, DEHS may summarily suspend the applicable DEHS permits to operate. Any person continuing to operate any activity or facility after suspension of any DEHS permit to operate, shall be guilty of an infraction offense for each day or portion thereof such violation exists. The penalty upon conviction thereof shall be a fine of at least twenty-five dollars (\$25), but not exceeding one hundred dollars (\$100) for a first violation, a fine not exceeding two hundred dollars (\$200) for the second conviction within one (1) year, and a fine not exceeding five hundred dollars (\$500) for the third conviction within one (1) year. The fourth and additional conviction(s) within one (1) year shall result in DEHS permit revocation procedures as provided in Section 33.025 herein.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.028 Administrative Procedures Where Suspended Permits.

At the time of suspension, DEHS shall issue a written notice to the permit holder stating the grounds for the suspension and notifying the permit holder of the right to a hearing on the suspension, if requested within fifteen (15) calendar days after the receipt of the notice or else such right to a hearing shall be deemed waived. DEHS shall guarantee a hearing within five (5) days of its receipt of a written request for a hearing on the suspension. Any

suspension shall remain in effect until such time as DEHS determines the grounds for suspension as provided in Section 33.027 herein, no longer exist. DEHS shall reinstate such suspended permit within a reasonable period unless it was also revoked.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.029 Administrative Hearing Procedures.

Notwithstanding any other administrative procedure of this jurisdiction, and unless otherwise specified by state law or within this E.H. Code, the following administrative procedure shall be applied for all DEHS hearings pertaining to the denial, suspension, revocation, or denial of reissuance of any license, permit, certificate, registration, privilege, or other entitlement through DEHS. The following procedure shall not be applicable to hearings before the San Bernardino County Board of Supervisors.

(a) An appeal made under this Section shall be made in writing, addressed to the Director of DEHS, within fifteen (15) calendar days of receipt of the Administrative OSC or notice of the denial, suspension, revocation, denial of reissuance, or denial of any claimed entitlement. The appeal shall contain the address to which the Notice of Hearing shall be sent in order for the appeal to be valid.

(b) The hearing officer shall be the Director of DEHS or the Director's appointee for such purpose. Any such appointee shall be a person who has no knowledge of the facts of the particular case at the outset of the hearing, and a person not immediately involved with enforcement activities pertaining to the particular activity or facility concerned.

(c) For revocation proceedings, the hearing shall be held within fifteen (15) calendar days after receipt of a request for a hearing; for post-suspension proceedings the hearing shall be held within five (5) calendar days after receipt of a request for a hearing. Upon written request of the permit holder, the hearing officer may postpone the hearing date or it may be postponed or continued by stipulation of the parties. If the party notified does not respond or appear, no further hearing procedure shall be required.

(d) Witnesses shall swear or affirm to tell the truth. The oath or affirmation shall be taken by the hearing officer. The enforcing officer shall present his/her case first, with oral testimony, documentary, or other evidence. The responding party shall have the right to be represented by counsel, and shall have the right of cross-examination. The responding party may present a response after the enforcing officer has presented his/her case. The enforcing officer shall have the right of cross-examination. After both sides have completed presenting evidence, the enforcing officer may comment on the evidence and argue. Thereafter, the responding party may do the same.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing and irrelevant and unduly repetitious evidence shall be excluded.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);

33.0210 Violations, Remedies, and Penalties.

It shall be unlawful for any person or entity to violate any provision of this Chapter. In addition to those listed herein or elsewhere provided by law, all enforcement procedures, remedies, and penalties of Chapter I (Authority and Administration) shall apply to this Chapter.

Adopted/Amended by Ordinances 850 (1958); 1335 (1967); 1527 (1969); 1633 (1971); 1790 (1973); 1832 (1973); 1924 (1974); 2246 (1978) 2663 (1982); restated and renumbered Ordinance #3105 (1986);